

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2312

Introduced by Assembly Member Gatto

February 18, 2016

An act to add Section 1167.2 to the Code of Civil Procedure, relating to unlawful detainer.

LEGISLATIVE COUNSEL'S DIGEST

AB 2312, as amended, Gatto. Unlawful detainer: ~~procedure~~; *payment of rent funds.*

Under existing law, a tenant of real property, for a term less than life, or the executor or administrator of his or her estate, is guilty of unlawful detainer when he or she continues in possession *of the property*, in person or by subtenant, ~~of the property or any party of the property, after the expiration of the term for which it is let to him or her, except as specified.~~ *without the permission of his or her landlord, or the successor in estate of his or her landlord, after default in the payment of rent pursuant to the lease or agreement under which the property is held, as specified.*

If the defendant appears in an unlawful detainer action, existing law requires that the trial of the proceeding be held not later than the 20th day following the date that the request to set the time of the trial is made. If the trial is not held within that time, existing law requires the court, upon finding that there is a reasonable probability that the plaintiff will prevail, to determine the amount of damages, if any, to be suffered by the plaintiff by reason of the extension, and to issue an order requiring the defendant to pay that amount to the court as the rent

would otherwise become due and payable for so long as the defendant remains in possession pending the termination of the action.

~~This bill would state the intent of the Legislature to enact legislation to mitigate the delays and losses in the current unlawful detainer process.~~ *in an unlawful detainer action described above, require a defendant who is represented by an attorney to deliver rent funds, as defined, to his or her attorney each month after the summons and complaint have been filed, as specified, until the plaintiff regains possession of the property or the court enters judgment in favor of the defendant. The bill would also require the defendant’s attorney to deposit the rent funds into a trust account and to send a letter confirming receipt of the rent funds to the plaintiff or plaintiff’s counsel within 4 days of receipt of the rent funds. The bill would further require the defendant’s attorney to release the rent funds as directed by the court or pursuant to a written agreement between the parties.*

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1167.2 is added to the Code of Civil
- 2 Procedure, to read:
- 3 1167.2. (a) *If a defendant is represented by an attorney in an*
- 4 *action for unlawful detainer brought under subdivision (2) of*
- 5 *Section 1161 in which the plaintiff is seeking past due rent from*
- 6 *a defendant who is in possession, the defendant shall deliver an*
- 7 *amount equal to the monthly rent to his or her attorney each month*
- 8 *after the filing of the summons and complaint as the rent would*
- 9 *otherwise become due and payable under the lease or rental*
- 10 *agreement until one of the following conditions is satisfied:*
- 11 (1) *The plaintiff regains possession of the property.*
- 12 (2) *The court enters judgment in favor of the defendant in the*
- 13 *unlawful detainer action.*
- 14 (b) *An attorney who receives rent pursuant to this section shall*
- 15 *do all of the following:*
- 16 (1) *Deposit all rent received from the defendant pursuant to*
- 17 *subdivision (a) into a trust account separate from the attorney’s*
- 18 *own funds.*
- 19 (2) *Within four days of receipt of the rent, send a letter to the*
- 20 *plaintiff, or his or her counsel, confirming receipt of the rent.*

1 (3) *Release the rent as directed by the court or pursuant to a*
2 *written agreement between the parties.*

3 ~~SECTION 1. It is the intent of the Legislature to enact~~
4 ~~legislation to mitigate the delays and losses in the current unlawful~~
5 ~~detainer process.~~

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